

REMARKS

Claims 28-38 are new. Claims 1- 38 are pending. Favorable consideration is respectfully requested.

At the outset, Applicants thank Examiner Fortuna for the helpful comments in the outstanding Office Action.

The rejection of Claims 1-27 under 35 USC 103(a) over US 4,599,138 (US'138) in any combination with US'397 is traversed below.

It is important to note that one requirement of the claimed invention is the metal ion activated peroxide. If all metal ion is either removed and/or reduced and/or complex bonded, the metal is not available for activating peroxide.

Applicants maintain their traversal based, in part, that US'138 and US'397 are not able to be combined because they teach away from doing so. Applicants completely disagree with the Examiner's position that the primary reference, US'138, only teaches that reduction of heavy metals in the process to a degree in which the effectiveness of the peroxide is degraded or reduced (citing Table II). Applicants respectfully submit that the Office is picking and choosing portions of the US'138 to suit itself and not taking US'138's disclosure in its entirety. Applicants respectfully submit that the objective of US'138 is to either remove the heavy metal altogether. Alternatively, US'138 clearly demonstrates to reduce the heavy metal as much as possible and sequester the remaining concentration of the heavy metal via complexation via the use of metal-complexing agents such as diethylenetriamine pentaacetic acid. This is fully described at column 6, lines 23-59. In fact, the very example within US'138 that the Office relies upon in the outstanding Office Action (Example I and Table II) supports Applicants position because US'138 states, in characterizing this Example, at column 10, line 68, to column 11, line 2:

"The heavy metal ions remaining in the chips were furthermore complex bonded."

This completely contradicts the Office's position. Again, it is clear that the objective of US'138 is to remove or reduce as much heavy metal ion as possible, and sequester the rest in complexes. If the heavy metal ion is sequestered in complex via complex bonded, it can not possibly be available to treat the pulp.

As admitted by the Office, US'397 clearly teaches peroxide treated pulp and the addition of metal ions are desired for selective oxidative attack. Accordingly, US'397 requires metal ion that is not removed or reduced as much as possible, nor completely sequestered in complexes via complex-bonding so that the metal ions drive selective oxidative attack. In contrast, US'138 discloses the removal or reduction of metal ions as much as possible and sequestering the remaining metal ions via complex and complex bonding. These disclosures could not contrast one another more clearly; and therefore, no *prima facie* case of obviousness can be made therefrom their combination.

Moreover, and even more pertinent, is the fact that US'138 clearly teaches away from the claimed invention. One element of the claimed invention is the presence of metal ion-activated peroxide. Applicants respectfully submit that the metal of US'138 can not possibly activate peroxide if the heavy metal is removed or reduced as much as possible, and the remaining heavy metal is sequestered in complex bonding. In US'138, clearly the heavy metal is not present, nor free, to activate anything, let alone peroxide because all metal is removed or sequestered via complex bonding. Thus, US'138 clearly teaches away from the possibility of a metal ion activated peroxide treatment. The claimed invention can not possibly be disclosed or suggested by US'138 when US'138 clearly teaches away from the conditions that are necessary for metal ion activation of peroxide. In addition, US'138 teaches away from any desire to add metal ion in the presence of peroxide, much less have the metal ion in an free form (US'138 teaches the desirability for the metal ion to be sequestered in a complex, not free to activate peroxide). Accordingly, US'138 teaches away from the claimed invention and it is the Applicants position that no reference, nor common sense or the level of skill in the art, can be relied upon to modify

US'138 in a manner that is contradictory to its teaching of the critical metal removal and/or sequestering via complex bonding. (See *KSR v. Teleflex*, 550 U.S. __, 82 USPQ2d 1385 (2007)).

Applicants additionally note the Office's comments that the present claims 1-27 do not recite that the ions are added to the pulp in conjunction with the peroxide (See outstanding Office Action at page 3, lines 3-5). Applicants respectfully direct the Office's attention to Claim 26 which claims "treating said pulp fibers with a composition comprising peroxide and metal ions". Claim 26 appears to directly contrast the Office's position. If Applicants are incorrect, Applicants respectfully request the Office to further explain its position so that Applicants may address it accordingly.

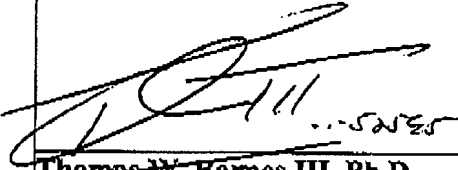
Finally, New Claims 29-38 clearly include embodiments where the metal ions are added to the other components necessary for success within the general spirit of the claimed invention. These Claims also appear to address the Office's comments that the present claims 1-27 do not recite that the ions are added to the pulp in conjunction with the peroxide (See outstanding Office Action at page 3, lines 3-5). If Applicants are incorrect, Applicants respectfully request the Office to further explain its position so that Applicants may address it accordingly.

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Applicants respectfully submit that the present application is now in condition for allowance. Favorable reconsideration is respectfully requested. Should anything further be required to place this application in condition for allowance, the Examiner is requested to contact below-signed by telephone.

Please charge the amount of \$1050.00 required for any request for extension of time to our Deposit Account No. 09-0525. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 09-0525. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time.

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